

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the following remarks. Claims 1, 9 and 19-21 are in the application.

The Examiner rejected claims 1, 9 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over Wagu in view of Koulbanis et al. Applicants respectfully traverse.

In the Advisory Action dated June 1, 2009, the Examiner stated that the disclosure does not show that the specific range of between 3:1 and 4:1 cyclodextrin:fatty acid is improved over complexes having a higher ratio. Applicant submits herewith a declaration under 37 C.F.R. 1.132 of Marlies Regiert, an inventor of the present application, discussing an experiment where the stability of the complexes of the present invention were compared to complexes having the higher ratios as disclosed in the cited references.

In the experiment, Ms. Regiert prepared samples of Alpha CD/Linoleic acid in the ratios of 3:1, 4:1, 5:1, 6:1, 11:1, 18:1 and 32:1. These samples were prepared as described in Example 1 of the specification. The samples were placed on a sample table. A xenon lamp was used to generate UV A and UV B radiation. The radiation was filtered through an optical filter of coated quartz shell. The part of the UV A/B radiation that was directed up was reflected onto the sample by mirrors attached above the xenon lamp. If substances such as cosmetic active ingredients are subjected to UV A/B radiation, this often leads, depending on the time, to degradation of the product, even in the case of linoleic acid, or to a lesser extent, to the linoleic acid content of complexes with alpha-cyclodextrin.

In each case, 5g of each of the complexes of alpha-cyclodextrin with linoleic acid was inserted between two glass plates. The edges of the glass plates was sealed with sticky tape and exposed in a SUN test apparatus (ATLAS Material Testing Solutions) to the UV light at a wavelength of 290-320 nm UV B radiation and 320-400 nm UV A radiation over a period of seven days. The SUN-Test device was fitted with this purpose with a

solar standard filter (in accordance with COLPA and DIN 67501). This filter excludes UV C rays, so that only UV A and UV B radiation reaches the sample. After the defined periods, the content of linoleic acid in the complexes was determined by NMR.

The results are shown in FIG. 1, attached to the declaration. These results clearly show that the complexes having a 3:1 or 4:1 ratio of alpha CD to linoleic acid have a higher UV stability than complexes with a higher alpha CD content.

Therefore the complexes having the claimed range of 3:1 or 4:1 ratio of alpha CD/linoleic acid have a significant benefit over complexes having either a lower ratio or a higher ratio. This benefit could not be expected by one reading any of the cited references.

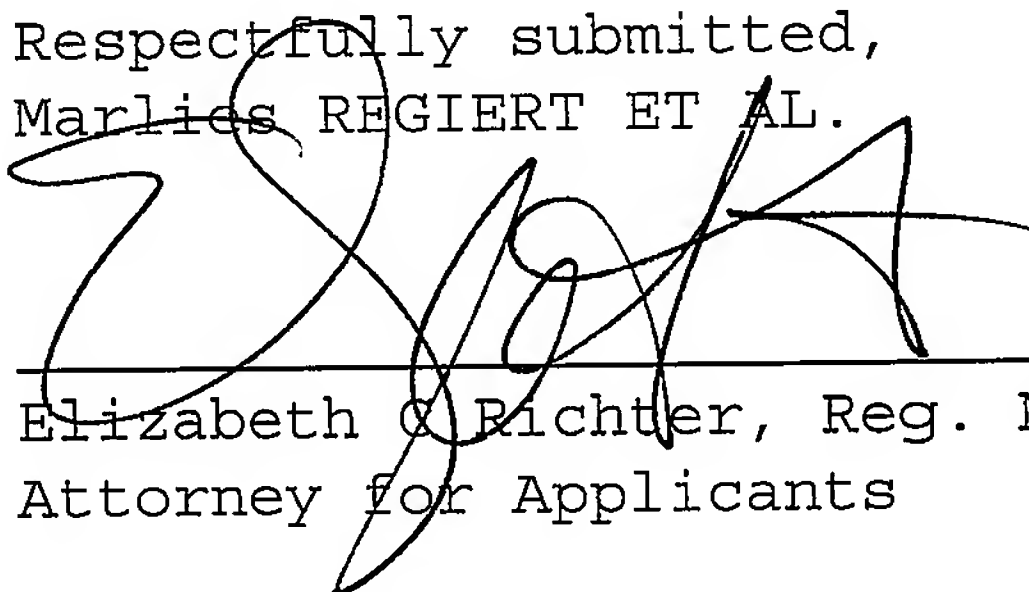
Neither Wagu nor Koulbanis mentions a ratio of 3:1 or 4:1 alpha CD/linoleic acid as claimed in the present application. The claimed invention possess superior stability as exhibited by the disclosure of the specification, the previously submitted

remarks, and the enclosed Declaration, over the complexes discussed in the cited references. There is no hint in either of the references that the specific ratio as claimed in the present invention would lead to such an improved product.

Accordingly, Applicants submit that claims 1, 9 and 19-21 are patentable over the cited references, taken either singly or in combination. Early allowance of the amended claims is respectfully requested.

Respectfully submitted,  
Marlies REGIERT ET AL.

COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576  
(516) 365-9802

  
Elizabeth C. Richter, Reg. No. 35,103  
Attorney for Applicants

Enclosure: Declaration under 37 C.F.R. 1.132

I hereby certify that this correspondence is being filed electronically in the U.S. Patent and Trademark Office on August 27, 2009.

  
Elizabeth Collard Richter